

Small Business Administration

§ 121.412

offer on all items, the offeror may qualify as a small business for the procurement if it meets the size standard of the item which accounts for the greatest percentage of the total contract value.

§ 121.408 What are the size procedures for SBA's Certificate of Competency Program?

(a) A firm which applies for a COC must file an "Application for Small Business Size Determination" (SBA Form 355). If the initial review of SBA Form 355 indicates the applicant, including its affiliates, is small for purposes of the COC program, SBA will process the application for COC. If the review indicates the applicant, including its affiliates, is other than small, SBA will initiate a formal size determination as set forth in § 121.1009. In such a case, SBA will not further process the COC application until a formal size determination is made.

(b) A concern is ineligible for a COC if a formal SBA size determination finds the concern other than small.

§ 121.409 What size standard applies in an unrestricted procurement for Certificate of Competency purposes?

For the purpose of receiving a Certificate of Competency in an unrestricted procurement, the applicable size standard is that corresponding to the SIC code set forth in the solicitation. For a manufactured product, a concern must also furnish a domestically produced or manufactured product, regardless of the size status of the product manufacturer. The offeror need not be the manufacturer of any of the items acquired.

§ 121.410 What are the size standards for SBA's Section 8(d) Subcontracting Program?

For subcontracting purposes pursuant to section 8(d) of the Small Business Act, a concern is small:

(a) For subcontracts of \$10,000 or less which relate to Government procurements, if its number of employees (including its affiliates) does not exceed 500 employees. However, subcontracts for engineering services awarded under the National Energy Policy Act of 1992 have the same size standard as Military and Aerospace Equipment and

Military Weapons under SIC code 8711;

(b) For subcontracts exceeding \$10,000 which relate to Government procurements, if its number of employees or average annual receipts (including its affiliates) does not exceed the size standard for the product or service it is providing on the subcontract; and

(c) For subcontracts for financial services, if the concern (including its affiliates) is a commercial bank or savings and loan association whose assets do not exceed \$100 million.

§ 121.411 What are the size procedures for SBA's Section 8(d) Subcontracting Program?

(a) Prime contractors may rely on the information contained in SBA's Procurement Automated Source System (PASS), or equivalent data base maintained or sanctioned by SBA, as an accurate representation of a concern's size and ownership characteristics for purposes of maintaining a small business source list. Even though a concern is on a small business source list, it must still qualify and self-certify as a small business at the time it submits its offer as a section 8(d) subcontractor.

(b) Upon determination of the successful subcontract offeror for a competitive subcontract, but prior to award, the prime contractor must inform each unsuccessful subcontract offeror in writing of the name and location of the apparent successful offeror.

(c) The self-certification of a concern subcontracting or proposing to subcontract under section 8(d) of the Small Business Act may be protested by the contracting officer, the prime contractor, the appropriate SBA official or any other interested party.

§ 121.412 What are the size procedures for partial small business set-asides?

A firm is required to meet size standard requirements only for the small business set-aside portion of a procurement, and is not required to qualify as a small business for the unrestricted portion.

§ 121.501

SIZE ELIGIBILITY REQUIREMENTS FOR SALES OR LEASE OF GOVERNMENT PROPERTY

§ 121.501 What programs for sales or leases of Government property are subject to size determinations?

Sections 121.501 through 121.512 apply to small business size determinations for the purpose of the sale or lease of Government property, including the Timber Sales Program, the Special Salvage Timber Sales Program, and the sale of Government petroleum, coal and uranium.

§ 121.502 What size standards are applicable to programs for sales or leases of Government property?

(a) Unless otherwise specified in this part—

(1) A concern primarily engaged in manufacturing is small for sales or leases of Government property if it does not exceed 500 employees;

(2) A concern not primarily engaged in manufacturing is small for sales or leases of Government property if it has annual receipts not exceeding \$2 million.

(b) Size status for such sales and leases is determined by the primary industry of the applicant business concern.

§ 121.503 Are SBA size determinations binding on parties?

Formal size determinations based upon a specific Government sale or lease, or made in response to a request from another Government agency under § 121.901, are binding upon the parties. Other SBA opinions provided to contracting officers or others are only advisory, and are not binding or appealable.

§ 121.504 When does SBA determine the size status of a business concern?

SBA determines the size status of a concern (including its affiliates) as of the date the concern submits a written self-certification that it is small to the Government as part of its initial offer including price where there is a specific sale or lease at issue, or as set forth in § 121.903 if made in response to a request of another Government agency.

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§ 121.505 What is the effect of a self-certification?

(a) A contracting officer may accept a concern's self-certification as true for the particular sale or lease involved, in the absence of a written protest by other offerors or other credible information which would cause the contracting officer or SBA to question the size of the concern.

(b) Procedures for protesting the self-certification of an offeror are set forth in §§ 121.1001 through 121.1009.

§ 121.506 What definitions are important for sales or leases of Government-owned timber?

(a) *Forest product industry* means logging, wood preserving, and the manufacture of lumber and wood related products such as veneer, plywood, hardboard, particle board, or wood pulp, and of products of which lumber or wood related products are the principal raw materials.

(b) *Logging of timber* means felling and bucking, yarding, and/or loading. It does not mean hauling.

(c) *Manufacture of logs* means, at a minimum, breaking down logs into rough cuts of the finished product.

(d) *Sell* means, in addition to its usual and customary meaning, the exchange of sawlogs for sawlogs on a product-for-product basis with or without monetary adjustment, and an indirect transfer, such as the sale of the assets of a concern after it has been awarded one or more set-aside sales of timber.

(e) *Significant logging of timber* means that a concern uses its own employees to perform at least two of the following: felling and bucking, yarding, and loading.

§ 121.507 What are the size standards and other requirements for the purchase of Government-owned timber (other than Special Salvage Timber)?

(a) To be small for purposes of the sale of Government-owned timber (other than Special Salvage Timber) a concern must:

(1) Be primarily engaged in the logging or forest products industry;

(2) Not exceed 500 employees, taking into account its affiliates; and